



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2014-0715]

RIN 1625-AA08

Special Local Regulation; Mavericks Surf Competition, Half Moon Bay, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to revise a special local regulation in the navigable waters of Half Moon Bay, CA, near Pillar Point in support of the Mavericks Surf Competition, an annual invitational surf competition held at the Mavericks Break. We are proposing this revision to improve the regulation by making it clearer and to have it better reflect the natural conditions that must be met for this surf competition to take place. This regulation is necessary to provide for the safety of life on the navigable waters immediately prior to, during, and immediately after the surfing competition, which is held only one day between November 1 of each year and March 31 of the following year. This proposed revision would temporarily restrict vessel traffic in the vicinity of Pillar Point and prohibit vessels and persons not participating in the surfing event from entering the dedicated surfing area and a designated no-entry area. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL

REGISTER].

ADDRESSES:

You may submit comments identified by docket number USCG-2015-0427 using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the SUPPLEMENTARY INFORMATION section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Lieutenant Marcia Medina, U.S. Coast Guard Sector San Francisco; telephone (415) 399-7443, e-mail at D11-PF-MarineEvents@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

ATON	Aids to Navigation
CFR	Code of Federal Regulations
COTP	Captain of the Port
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
OCMI	Officer in Charge, Marine Inspection
PATCOM	Patrol Commander
§	Section
U.S.C.	United States Code

II. Background, Purpose, and Legal Basis

The Mavericks Surf Competition has grown in popularity within the past several years. Due to the inherent dangers of the competition and the disruption to the normal uses of the waterways in the vicinity of Pillar Point, the Coast Guard issues a Marine Event Permit to the event sponsor. Following the collapse of the Cliffside viewing area in 2011, the Coast Guard became concerned that the loss of shore-side viewing would result in a larger than expected number of spectator vessels in the vicinity of the event.

The Coast Guard considered promulgating a safety zone which would prevent spectator vessels from encroaching on the competition area to preserve the safety of both the surfers and the spectators. Because it proved impossible to reliably predetermine the exact location of breaking surf, the Coast Guard did not establish a safety zone for subsequent events, but has continued to maintain a presence at the event to protect the competitors from encroaching spectator vessels and vice versa.

This proposed rulemaking would formalize the scheme employed during the 2013, 2014, and 2015 competitions, which proved to be an effective means of separating competitors from spectators. The two zones and associated regulations contained in this proposed rule are intended to ensure the safety of competitors from spectator vessels, and to enhance safety of spectator vessels by creating a designated area in which the Coast Guard may direct the movement of such vessels. Because of the dangers posed by the surf conditions during the Mavericks Surf Competition, the special local regulation is necessary to provide for the safety of event participants, spectators, and other vessels transiting the event area. For the safety concerns noted, it is in the public interest to have these regulations in effect during the event.

On October 15, 2014, the Coast Guard published an interim rule and request for comments in the *Federal Register* (79 FR 61762) establishing the special local regulation 33 CFR 100.1106. We received no comments during the comment period on the interim rule. Although the event was not held during the 2014-2015 season, the planning process proved to be vital in identifying updates to the rule as proposed here.

On November 3, 2015, we published a temporary final rule (80 FR 67635) for the Mavericks Surf Competition which was most recently held on February 12, 2016. That temporary rule was needed to keep spectators and vessels a safe distance away from the event

participants and the hazardous waters surrounding Pillar Point. Past competitions have demonstrated the importance of restricting access to the competition area to only vessels in direct support of the competitors. In the Coast Guard's assessment, that temporary final rule provided an effective scheme for ensuring the safety of life during the Mavericks Surf Competition.

We are proposing the following changes based on lessons learned during the multi-agency planning process. The name of this event has changed over the years based on the sponsor. The Coast Guard decided to propose this rule using the event name "Mavericks Surf Competition" to remove any affiliation with past or future sponsors and to keep the name of the event generic in order to apply to any future sponsor. In addition, this proposed rule would clarify that the maintenance of the buoy placement throughout the course of the event is a requirement for the event sponsor. The definition of "support vessels" has been updated to specifically include jet skis and to clarify that they must be pre-designated and approved to serve as such for this event by the Officer in Charge, Marine Inspection (OCMI) prior to the competition. Due to the temperamental nature of buoy locations with regards to swing circles, the proposed definition for "Zone 1" and "Zone 2" would both amend the ATON buoy reference of "Pillar Point Entrance Lighted Gong Buoy 1" to only reference a latitude and longitude position. Finally, the definition of "spectator vessel" was expanded to specifically include human-powered craft.

Under 33 CFR 100.35, the Coast Guard District Commander has authority to promulgate certain special local regulations deemed necessary to ensure the safety of life on the navigable waters immediately before, during, and immediately after an approved regatta or marine parade. The Commander of Coast Guard District 11 has delegated to the Captain of the Port (COTP) San Francisco the responsibility of issuing such regulations.

The Mavericks Surf Competition is a one-day “Big Wave” surfing competition between the top big wave surfers as chosen by the event organizer. The competition only occurs when 15-20 foot waves are sustained for over 24 hours and are combined with mild easterly winds of no more than 5-10 knots. The rock and reef ridges that make up the sea floor of the Pillar Point area, combined with optimal weather conditions, create the large waves for which Mavericks is known. Due to the hazardous waters surrounding Pillar Point at the time of the surfing competition, the Coast Guard is proposing to modify § 100.1106 which establishes a special local regulation in the vicinity of Pillar Point that restricts navigation in the area of the surf competition and in neighboring hazardous areas. This proposed rule is intended to ensure the safety of competitors by delineating a specific competition area, and to provide for the safety of spectators by imposing operating restrictions on those vessels.

III. Discussion of Proposed Rule

The Coast Guard proposes to revise a regulated area for the Mavericks Surf Competition. The Mavericks Surf Competition will take place on a day that presents favorable surf conditions between November 1 of each year and March 31 of the following year, from 6 a.m. until 6 p.m. The Mavericks Surf Competition can only occur when 15-20 foot waves are sustained for over 24 hours and are combined with mild easterly winds of no more than 5-10 knots. Unpredictable weather patterns and the event’s narrow operating window limit the Coast Guard’s ability to notify the public of the event. The Coast Guard would issue notice of the event as soon as practicable, but no later than 24 hours before Competition day via the Broadcast Notice to Mariners and issue a written Boating Public Safety Notice at least 24 hours in advance of Competition day. Also, the zones that would be established by this proposed rule will be prominently marked by at least 8 buoys throughout the course of the event.

The Mavericks Surf Competition will occur in the navigable waters of Half Moon Bay, CA, in the vicinity of Pillar Point as depicted in National Oceanic and Atmospheric Administration (NOAA) Chart 18682 (<http://www.charts.noaa.gov/OnLineViewer/18682.shtml>). The Coast Guard will enforce a regulated area defined by an arc extending 1000 yards from Sail Rock (37°29'34"N, 122°30'02"W) excluding the waters within Pillar Point Harbor. All proposed restrictions would apply only between 6 a.m. and 6 p.m. on the day of the actual competition.

The effect of this regulation would be to restrict navigation in the vicinity of Pillar Point during the Mavericks Surf Competition. During the enforcement period, the Coast Guard would direct the movement and access of all vessels within the regulated area. The regulated area will be divided into two zones. Zone 1 will be designated as the competition area, and the movement of vessels within Zone 2 will be controlled by the Patrol Commander (PATCOM).

This regulation is needed to keep spectators and vessels a safe distance away from the event participants and the hazardous waters surrounding Pillar Point. Past competitions have demonstrated the importance of restricting access to the competition area to only vessels in direct support of the competitors. Failure to comply with the lawful directions of the Coast Guard could result in additional vessel movement restrictions, citation, or both.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of

available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget.

We expect the economic impact of this rule does not rise to the level of necessitating a full Regulatory Evaluation. The regulated area and associated regulations are limited in duration, and are limited to a narrowly tailored geographic area. In addition, although this rule restricts access to the waters encompassed by the regulated area, the local waterway users will be notified via public Broadcast Notice to Mariners to ensure the regulations will result in minimum impact. The entities most likely to be affected are small commercial vessels, and pleasure craft engaged in recreational activities.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

The Coast Guard did not receive any comments from the Small Business Administration on the Interim rule published on October 15, 2014. Also, while some owners or operators of

vessels intending to transit the safety zone may be small entities, for the reasons stated in section IV.A above this proposed rule would not have a significant economic impact on any vessel owner or operator. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a regulated area of limited size and duration. Normally such actions are categorically excluded from further review under paragraph 34(h) and 35 (b) of Figure 2-1 of Commandant Instruction M16475.ID. A preliminary environmental analysis checklist

supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the FOR FURTHER INFORMATION CONTACT section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100 - REGATTAS AND MARINE PARADES

1. The authority citation for part 100 is revised to read as follows:

Authority: 33 U.S.C. 1233; 33 CFR 1.05–1.

2. Revise § 100.1106 to read as follows:

§ 100.1106 Special Local Regulation; Mavericks Surf Competition.

(a) **Location.** This special local regulation establishes a regulated area on the waters of Half Moon Bay, located in the vicinity of Pillar Point, excluding the waters within Pillar Point Harbor. This regulated area is defined in paragraph (c) of this section.

(b) **Enforcement period.** This section will be enforced between 6 a.m. and 6 p.m. on Competition day, which if defined wave and wind conditions are met, will occur for one day between November 1 of each year and March 31 of the following year. Notice of the specific enforcement date of this section will be announced via Broadcast Notice to Mariners and issued in writing by the Coast Guard in a Boating Public Safety Notice at least 24 hours in advance of Competition day.

(c) Definitions. As used in this section—

Competition day means the one day between November 1 of each year and March 31 of the following year that Mavericks Surf Competition will be held. The Mavericks Surf Competition will only be held if 15 to 20 foot waves are sustained for over 24 hours and are combined with mild easterly winds of no more than 5 to 10 knots.

Competitor means a surfer enrolled in the Mavericks Surf Competition.

Patrol Commander or PATCOM means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer, or a Federal, State, or local officer designated by the Captain of the Port San Francisco (COTP), to assist in the enforcement of the special local regulation.

Regulated area means the area in which the Mavericks Surf Competition will take place. This area is bounded by an arc extending 1000 yards from Sail Rock (37°29'34"N, 122°30'02"W) excluding the waters within Pillar Point Harbor. All coordinates are North American Datum 1983. Within the regulated area, at least two zones will be established and marked by buoys on the day of the competition. Due to the dynamic and changing nature of the surf, the exact size and location of the zones will not be made public until the competition day. The zones will be prominently marked by at least 8 buoys, placed and maintained throughout the course of the event by the event sponsor in a pattern approved by the PATCOM. In addition, the Coast Guard will notify the public of the zone locations via Broadcast Notice to Mariners on the day of the event.

Spectator vessel means any vessel or person, including human-powered craft, which is not designated by the sponsor as a support vessel.

Support vessel means a vessel, including jet skis, which is designated and conspicuously

marked by the sponsor to provide direct support to the competitors. Support vessels must be pre-designated and approved to serve as such for this event by the Officer in Charge, Marine Inspection (OCMI) prior to the competition.

Zone 1 means the competition area within the regulated area. Zone 1 will generally be located to the northwest of a line drawn between Sail Rock (37°29'34"N, 122°30'02"W) and 37°29'10.410"N, 122°30'21.904"W.

Zone 2 means the area within the regulated area where the Coast Guard may direct the movement of all vessels, including restricting vessels from this area. Zone 2 will generally be located to the southeast of a line drawn between Sail Rock (37°29'34"N, 122°30'02"W) and 37°29'10.410"N, 122°30'21.904"W.

(d) Special local regulations. The following regulations apply between 6 a.m. and 6 p.m. on the competition day.

(1) Only support vessels may be authorized by the Patrol Commander (PATCOM) to enter Zone 1 during the competition.

(2) Entering the water in Zone 1 by any person other than the competitors is prohibited. Competitors may enter the water in Zone 1 from authorized support vessels only.

(3) Spectator vessels and support vessels within Zone 2 must maneuver as directed by PATCOM. Given the changing nature of the surf in the vicinity of the competition, PATCOM may close Zone 2 to all vessels due to hazardous conditions. Due to weather and sea conditions, the Captain of the Port may deny access to Zone 2 and the remainder of the regulated area to all vessels other than competitors and support vessels on the day of the event

(4) Entering the water in Zone 2 by any person is prohibited.

(5) Rafting and anchoring of vessels are prohibited within the regulated area.

(6) Only vessels authorized by the PATCOM will be permitted to tow other watercraft within the regulated area.

(7) Spectator and support vessels in Zones 1 and 2 must operate at speeds which will create minimum wake, in general, 7 miles per hour or less.

(8) If granted permission to enter the regulated area, when hailed or signaled by the PATCOM by a succession of sharp, short signals by whistle or horn, the hailed vessel must come to an immediate stop and comply with the lawful directions issued. Failure to comply with a lawful direction may result in additional operating restrictions, citation for failure to comply, or both.

(9) During the events, vessel operators may contact the PATCOM on VHF-FM channel 16.

Dated: December 13, 2016.

Anthony J. Ceraolo,
Captain, U.S. Coast Guard,
Captain of the Port San Francisco.

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